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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,152	12/22/2000	George Beshara Bendak	AMCC4480	2339
7590 06/01/2005			EXAMINER	
Terrance A. Meador INCAPLAW 1050 Rosecrana Street Suite K San Diego, CA 92106			SAM, PHIRIN	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/746,152	Applicant(s) BENDAK ET AL.	
	Examiner Phirin Sam	Art Unit 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-14,17,20-47,49-56,58-72 and 74-94 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17,20-41,56 and 58-71 is/are allowed.
- 6) ☒ Claim(s) 1,7,10,42,43,51,72,80,83 and 88 is/are rejected.
- 7) ☒ Claim(s) 3-6,8,9,11-14,44-47,49,50,52-55,74-79,81,82,84-87 and 89-94 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) **PHIRIN SAM**
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims Cancellation

1. The request for cancel claims 2, 15, 16, 18, 19, 48, 57, and 73 without prejudice or disclaimer has been noticed and entered.

Specification

2. The disclosure is objected to because of the following informalities:

Under the Related Applications of the specification, all the copending or related applications which listed by the applicant(s) should be provided a completion of serial numbers and filing dates. Therefore, the appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 7, 10, 42, 43, and 51 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,819,679 (hereinafter referred as “Kerns”).

Kerns discloses the invention (**amended claim 1, 7, and 10**) as claimed including a method for variably programming the quantity of frame synchronization bytes when communicating a multidimensional frame structure, the method comprising:

- (a) defining an overhead section in a frame structure having a predetermined number of bytes including a first plurality of bytes (see Fig. 5, element 204, col. 3, lines 47-50);

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- (b) selecting the number of bytes in the overhead section to be used for frame synchronization by selecting a number of bytes in the range from zero to the first plurality (see Fig. 5, col. 4, lines 37-44);
- (c) selecting the bit error rate-required for the recognition of a frame synchronization byte by selecting an average-bit error rate for the selected number of frame synchronization bytes (see Figs. 8, element 406, col. 5, lines 12-41).

Regarding amended claim 42 and claims 43, 51, Kerns discloses in a multidimensional digital frame structure, a transmitter system for variably programming the number of frame synchronization bytes, the system comprising:

- (a) a frame generator including an overhead generator to generate the overhead section of a frame, a payload generator to generate the payload section of the frame, and an encoder to provide forward error correction (FEC) for the frame (see Fig. 4, col. 3, lines 23-27, 47-52);
- (b) wherein the overhead generator includes an input to select the quantity of frame synchronization bytes in the overhead section (see Fig. 5, col. 3, lines 47-50);
- (c) wherein the overhead generator has an input to accept commands for selecting the location of the bytes in the overhead section to be used for frame synchronization (see Figs. 5, 9, col. 4, lines 37-44, col. 5, lines 35-54).

5. Claims 72, 80, 83, and 88 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,522,665 (hereinafter referred as "Suzuki").

Regarding amended claims 72, 80, 83, and 88, Suzuki discloses A system for variably programming the quantity of frame synchronization bytes in the communication of a multidimensional digital frame structure, the system comprising:

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- (a) a transmitter with a frame generator including an overhead generator having an input to accept commands for selecting the quantity of frame synchronization bytes in the overhead section of a transmitted frame (see Fig. 3, col. 9, lines 50-67, and col. 11, lines 18-43);
- (b) a receiver with a frame receiver including an overhead receiver having an input to accept commands for selecting the quantity of frame synchronization bytes required for synchronizing a received frame, the overhead receiver synchronizing the frame in response to recognizing the frame synchronization bytes (see Fig. 4, col. 10, lines 1-61, col. 13, lines 52-67, and col. 14, lines 1-4);
- (c) wherein the overhead receiver selects the number of consecutive frames that must be recognized (see Fig. 4, col. 10, lines 26-31);
- (d) wherein the overhead receiver synchronizes the received frame in response to the selected number of recognized frames (see Fig. 4, col. 13, lines 52-65).

Allowable Subject Matter

6. Claims 3-6, 8, 9, 11-14, 44-47, 49, 50, 52-55, 74-79, 81, 82, 84-87, and 89-94 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 17, 20-41, 56, and 58-71 are allowed.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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(1) US Patent 5,955,959 (Taki et al) discloses synchronization message transmitting apparatus.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phirin Sam whose telephone number is (571) 272-3082. The examiner can normally be reached on Mon-Fri, 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on (571) 272 - 3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully submitted,

Date: May 24, 2005

A handwritten signature in black ink, appearing to read 'Phirin', written over a horizontal line.

PHIRIN SAM
PRIMARY EXAMINER